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19                   **UNITED STATES DISTRICT COURT**  
20                   **NORTHERN DISTRICT OF CALIFORNIA**

21 STEVE TOKOSHIMA, LUIS FLORES, and  
JAMES FABER, on Behalf of Themselves and All  
22 Others Similarly Situated,

23                   Plaintiffs,

24                   vs.

25 THE PEP BOYS - MANNY MOE & JACK OF  
CALIFORNIA, a California corporation; THE PEP  
26 BOYS - MANNY MOE & JACK, a Pennsylvania  
corporation; and DOES 1-10,

27                   Defendants.

28 CASE NO.: C 12-4810 CRB

**STIPULATION AND ORDER  
REGARDING MEDIATION AND CLASS  
CERTIFICATION SCHEDULING**

1        WHEREAS plaintiffs originally filed this action in Alameda County Superior Court on  
2 August 6, 2012, and defendants then timely removed this action to the United States District Court  
3 for the Northern District of California pursuant to the Class Action Fairness Act;

4        WHEREAS the parties were unable to commence discovery in this action until after their  
5 initial Rule 26(f) conference in December 2012;

6        WHEREAS at the time of the initial case management conference, the parties had agreed to  
7 pursue private mediation, but had not yet agreed to the timing of the mediation. In particular, the  
8 parties informed the Court in their Joint Case Management Conference Statement filed on January  
9 11, 2013, that “depending on initial discovery, the parties will assess whether mediation should  
10 occur before or after any certification motion is decided.” Dkt. No. 11 at 11;

11        WHEREAS at the initial case management conference in this action on January 18, 2013,  
12 this Court scheduled the hearing on class certification in this action to be held on September 20,  
13 2013. Dkt. No. 14;

14        WHEREAS based on the September 20, 2013 hearing date, the parties met and conferred,  
15 and agreed to a briefing schedule on plaintiffs’ motion for class certification, pursuant to which  
16 plaintiffs’ motion would be filed no later than July 10, 2013, defendants’ opposition would be filed  
17 no later than August 16, 2013, and plaintiffs’ reply would be filed no later than September 6, 2013;

18        WHEREAS the parties have been diligently engaged in promulgating and responding to  
19 written discovery since January 18, 2013 and have met and conferred to address various discovery  
20 issues;

21        WHEREAS the parties have now agreed to mediate this case before the filing of plaintiffs’  
22 motion for class certification, in order to attempt to resolve this case while avoiding unnecessary  
23 expense and burdens on the parties of discovery and briefing related to class certification issues;

24        WHEREAS the parties have met and conferred and agreed upon a mediator, Mark Rudy of  
25 the San Francisco firm of Rudy, Exelrod, Zieff & Lowe LLP, and have scheduled the mediation for  
26 July 24, 2013;

27        WHEREAS the date for mediation has been selected in order to permit the parties sufficient  
28 time to conduct necessary formal and informal discovery to prepare for the mediation and to have

1 sufficient information about the strengths and weaknesses of the claims and defenses and the extent  
2 of defendants' potential exposure, and the parties are meeting and conferring regarding the scope  
3 of that formal and informal discovery;

4 WHEREAS, this discovery will include 30(b)(6) depositions of corporate witnesses located  
5 at defendants' headquarters in Philadelphia, Pennsylvania, which will require the coordination of  
6 travel schedules for counsel for the parties;

7 WHEREAS, plaintiffs have informed defendants that they are willing to defer production of  
8 certain discovery necessary for filing plaintiffs' motion for class certification, and discovery-  
9 related motion practice, because that discovery is not necessary for plaintiffs to evaluate the case  
10 sufficiently to attempt to resolve the case through mediation but this discovery will need to be  
11 conducted if the mediation does not result in a settlement;

12 WHEREAS the current schedule for class certification, pursuant to which plaintiffs' motion  
13 would be filed on July 10, 2013, would require the parties to invest substantial time and resources  
14 in formal discovery and class certification briefing before the scheduled July 24 mediation. In  
15 particular, the current schedule for class certification would require plaintiffs to have completed all  
16 of their formal class certification-related discovery and filed their class certification motion, and  
17 defendants to have completed almost all of their class certification-related discovery and briefing,  
18 before the July 24 mediation, thereby frustrating the parties' purposes in agreeing to conduct an  
19 early, pre-class certification mediation after limited formal discovery and before the completion of  
20 discovery and the briefing of certification issues in this case;

21 WHEREAS avoiding unnecessary litigation regarding class certification would be  
22 advantageous to the parties and to this Court, by conserving the Court's and the parties' resources;

23 WHEREAS, it would conserve the parties' resources to continue the class certification  
24 hearing date so that the parties can participate in mediation on July 24, 2013 without having had to  
25 complete all discovery necessary for class certification, with sufficient time after the mediation to  
26 complete discovery (and any discovery-related motion practice) and move for class certification if  
27 mediation is unsuccessful;

28 THEREFORE, IT IS HEREBY STIPULATED BY THE PARTIES AS FOLLOWS:

The parties jointly request that the class certification hearing set for September 20, 2013, be vacated, and that a new hearing date be set for January 24, 2014 with a briefing schedule similar to the schedule previously agreed to by the parties.

DATED: March 22, 2013

/s/ Eve H. Cervantez  
Eve H. Cervantez

**ALTSHULER BERZON LLP**  
Attorneys for Plaintiffs

STEVE TOKOSHIMA, LUIS FLORES, and  
JAMES FABER

DATED: March 22, 2013

/s/ John S. Battenfeld  
John S. Battenfeld

MORGAN, LEWIS & BOCKIUS LLP  
Attorneys for Defendants

THE PEP BOYS MANNY MOE & JACK OF  
CALIFORNIA and THE PEP BOYS – MANNY,  
MOE & JACK

PURSUANT TO STIPULATION, AND FOR GOOD CAUSE SHOWN, IT IS SO ORDERED. Plaintiffs' motion for class certification shall be heard on January 24, 2014 at 10:00 a.m.

Dated: March 25, 2013

